

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/033,832 03/03/98 MOSHER

W PRECI-P5366

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PM82/0223

EXAMINER

GREEN, B

ART UNIT

PAPER NUMBER

3628

DATE MAILED:

02/23/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademark

Office Action Summary

Application No.

09/033832

Applicant(s)

Examiner

Brian K. Green

Group Art Unit

3058

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 11/2/99 and 12/16/99.
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 19-25 and 27 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 19-25 and 27 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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Specification

1. The abstract of the disclosure is objected to because of the use of legal phraseology (means) throughout the abstract which is improper. Correction is required. See MPEP § 608.01(b).

2. ***Claim Rejections - 35 USC § 112***

Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 20, lines 2-3, there is no antecedent basis for "said circuit means".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Hayes (U.S. Patent No. 4,718,374).

Hayes shows in figures 1-5 a reusable securement means comprising a body (22) with securement portions (45,100,102,104,106) and a radio frequency identification circuit means (60). The intended use of the device has not been given any patentable weight. The securement portions engage the ends of attachment means (24,114).

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 19-25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Jong (U.S. Patent No. 4,612,719) in view of Hayes (U.S. Patent No. 4,718,374).

de Jong shows in figures 8 and 9 a band (6), securement means (90), and a responder (2). de Jong does not disclose whether the responder includes a radio frequency circuit means and the idea of embedding the responder within the securement means in the embodiment shown in figures 8 and 9. The responder (2) is considered to be embedded in the securement means. Hayes shows in figures 1-5 a securement means comprising a body (22) having a radio frequency identification circuit means (60) embedded therein. In view of the teachings of Hayes it would have been obvious to one in the art to modify de Jong by including a radio frequency circuit means within the responder since this would allow information from the responder to be sent out and received in an easier manner. de Jong shows in figure 1 the idea of embedding the responder within the securement means. In view of the teachings of of figure 1 of de Jong it would have been obvious to one in the art to modify figures 8 and 9 of de Jong by embedding the responder within the securement means since this would allow the responder to be attached to the securement means in a more secure manner.

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7. Claims 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pennock et al. (U.S. Patent No. 5,140,946) in view of Hayes (U.S. Patent No. 4,718,374).

Pennock et al. shows in figures 1-2 a band (40) and a securement means (10). Pennock et al. does not disclose placing a radio frequency circuit means within the securement means. Hayes shows in figures 1-5 a reusable securement means comprising a body (22) with securement portions (45,56,106,168) and a radio frequency identification circuit means (60). In view of the teachings of Hayes it would have been obvious to one in the art to modify Pennock et al. by including a radio frequency circuit means within the securement means since this would allow the animal to be identified and information with regard to the animal to be relayed to another location.

Applicant's arguments filed Nov. 2 and Dec. 16, 1999 have been fully considered but they are not persuasive.

In regard to the applicant's argument that Hayes fails to teach a reusable securement means. Reusable is a broad term and can be interpreted in many ways. The fact that the securement means is left on the animal for multiple days makes the securement means reusable, i.e. reused each day. Further, the attachment (24) could be cut off and the securement means removed from the animal. The securement would then be sterilized and attached to another animal, i.e. reused.

In regard to the applicant's argument that the securement means of Hayes does not include radio frequency identification circuit means therein. The examiner disagrees since Hayes shows in

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figure 5 a radio frequency identification circuit means (60) embedded within the securement means.

In regard to the applicant's argument that de Jong and Pennock et al. can not be properly modified with Hayes since Hayes fails to teach the idea of attaching the radio circuit to the securement means. de Jong shows and teaches the use of a securement means which includes a responder (2) embedded therein. de Jong is merely be modified in view of Hayes by replacing the responder (2) with a radio circuit as taught by Hayes in order to achieve the advantage of allowing the device to send out and receive information in an easier manner. The location of the radio circuit on Hayes is not important with regard to the modification of de Jong. With regard to the Pennock et al. Patent, Pennock et al. teaches the use of an illuminated collar that includes a reusable securement means (10). The Hayes patent is being used to show that the addition of a radio circuit would provide the advantage of allowing the animal to be identified and information with regard to the animal to be relayed to another location. It is considered within one skilled in the art to embed the radio circuit on an area of the device of Pennock et al. which is thick enough to receive it. The best locations appearing on the securement means (10) of Pennock et al.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (703) 308-1011.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Brian K. Green
BRIAN K. GREEN
PRIMARY EXAMINER
GROUP 100
3628

bkg

Feb. 15, 2000